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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,528	09/19/2003	Donald McCollar	EER.P0014	5892
30163	7590	10/26/2007	EXAMINER	
JOHNSON & ASSOCIATES PO BOX 90698 AUSTIN, TX 78709-0698			LANGEL, WAYNE A	
		ART UNIT	PAPER NUMBER	
		1793		
		MAIL DATE	DELIVERY MODE	
		10/26/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/666,528	MCCOLLOR ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Wayne Langel	1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER; FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 September 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-19,59-63,65-72 and 74-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 12-19,59-63,65-72 and 74-92 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-19, 59-63, 65-72 and 74-92 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The computer model is not described with such specificity as to enable one of ordinary skill in the art to use the invention. For example, claim 12 recites that the computer model is used to determine one or more optimal locations in the combustion system for the injection of particles. However there is nothing in the specification which would teach one how the model is "used" to make such a determination, other than to state that the various computer programs (ATRAN, Chemkin, and FLUENT) are known in the prior art. The same is true for the "uses" of the computer models recited in the other claims. The block diagrams are not provided, other than to show that various parameters are fed into the prior art computer models. See MPEP 2106.01 and 2106.02. Applicants' argument, that in the examples given in the specification, several computer programs are used to help create a computer model of a combustion system, is not convincing. Even if the applicant has cited prior art patents or publications to demonstrate that particular block diagram hardware or software components are known, it is not self-evident how these known computer programs are to be interconnected to function in the disclosed complex manner. See In re

Scarborough, 500 F. 2d 560, 566, 182 USPQ 298, 301 (CCPA 1974) and In re Forman, 463 F. 2d 1125, 1129, 175 USPQ 12, 16 (CCPA 1972). Although Paragraphs [27], [30], [33] and [39] disclose how various programs can be used to model various parameters, it would require undue experimentation for one of ordinary skill in the art to determine how these programs are interconnected to simultaneously model such parameters as flow patterns, temperature patterns and condensation reactions. Moreover, Fig. 1 shows that various parameters from blocks 16 and 18 were provided as inputs to CHEMKIN and FLUENT models. But there is no disclosure as to how the CHEMKIN and FLUENT models would be properly programmed to perform the required calculations or to coordinate the other system components to perform the disclosed and claimed functions. See In re Brown, 477 F.2d at 951, 177 USPQ at 695.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 76, 86, 91 and 92 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 76 and 86, the recitation of "at least one of...and" is improper Markush terminology. The phrase should be changed to -- at least one member selected from the group consisting of...and -- to avoid this rejection. In claims 91 and 92, the recitation of "CFD-Fluent", "Chemkin", "ATRAN" and "GDE" render the scope of the claims vague and indefinite, since it is not clear that these trademarks have fixed and definite meanings. See MPEP 608.01 (v).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Langel whose telephone number is 571-272-1353. The examiner can normally be reached on Monday through Friday, 8 am - 3:30 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1793

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Wayne A. Langel  
Wayne Langel  
Primary Examiner  
Art Unit 1793